Exhibit #7

Skieding18@aol.com on 10/09/2001 12:55:28 PM

To: Loretta Young/EH/DOE@EH
cc:

Subject: Testimony for October 10 public hearing

Loretta, I am enclosing testimony for PACE Local members Gaylon Hanson and
Jeanne Cisco. This will be a zip file so if you have trouble opening it,
please let me know and I will send them separately. Thanks,
Sylvia Kieding

 - att1.htm

 - gaylonhanson_2.ZIP

Testimony of Gaylon Hanson, PACE Local 11-562
Idaho Falls, Idaho

Hearing on Proposed Physician Rules
Department of Energy

October 10, 2001

My name is Gaylon Hanson. I work at the Idaho Falls National Environmental and Engineering Laboratory. I have worked at INEEL for the past 29 years as welder first class. I have worked predominately in the Test Area North or TAN. I have been exposed to radiation, uranium, plutonium, beryllium, asbestos, carbon tet, mercury, chlorinated solvents, hydrogen chloride, hydrogen fluoride, cadmium, nickel and noise.

I am not an expert on worker compensation, but I can tell you that I don't know anyone at INEEL who has been awarded compensation for an occupational disease. I have noise-induced hearing loss, but the state does not cover noise-induced hearing loss and I see that DOE refuses to include hearing loss in its proposed rules, a real injustice to workers in the weapons complex where the noise levels are incredibly high. I believe that our medical testing program has found that almost 90% of workers tested had hearing loss.

Before I begin discussing the proposed rules, I want to talk a little bit about INEEL, its hazards and why I think the state compensation system is the wrong vehicle for compensating DOE workers for diseases caused by toxic exposures at the workplace.

INEEL covers 890 square miles, almost the size of Rhode Island. It was once the site of the largest concentration of nuclear reactors in the world. Fifty-two nuclear reactors were built there over the years. INEEL workers have had and still have numerous hazardous exposures including radiation, uranium, plutonium, asbestos, lead, cadmium, chlorinated solvents, mercury, beryllium, acids and nickel.

I used to ride to work with a man, Clint Jensen, who worked at the Special Manufacturing Capability (SMC) which makes depleted uranium tanks for the army. Jensen was a production technician with over 20 years of experience on the job. He started getting sick and raised concerns with the contractor about his exposures to depleted uranium and other unknown chemicals. The contractor denied him medical leave and workers compensation. Jensen became a whistleblower and for this was ostracized at the plant. He now has a lawsuit against the contractor. When DOE and DOL hired an occupational medicine physician to investigate his complaints, she found the following:

- Lack of on-site expertise in the industrial hygiene program at SMC;
- Little sampling data for any substance except depleted uranium;
- The bioassay program at SMC required a full review;
- Spot checks for basic elements of an industrial hygiene program were lacking

There is no chemical exposure data to speak of at INEEL and I believe this is true across the weapons complex. I have first-hand knowledge of this lack of chemical exposure data because for the past three years, I have worked on the PACE/Queens College medical surveillance program for former INEEL workers, called the Worker Health Protection Program or WHPP. When we first began the WHPP program back in 1997, Mark Griffon, our health physics and industrial hygiene consultant, Sylvia Kieding, PACE program director and myself met with Dr. Creighton, the medical director for Bechtel, our contractor, to discuss what exposure records were available from the contractor. Dr. Creighton showed us a shelf in his office that contained a few boxes. That he said is the sum of chemical exposure records and went on to say that he was designing a prospective chemical monitoring program for the site.

Under Mark Griffon's direction, I have conducted more than 20 risk mapping with retirees at INEEL. The purpose of the risk mapping sessions has been to determine what the exposures were at INEEL, where the exposures occurred, and who was exposed. We conducted these risk-mapping sessions with retirees from buildings who were familiar with the processes and their hazards. However, we have only scratched the surface in this effort. Far more needs to be done to reconstruct the exposures calling upon the institutional memory of the workers.

Although I am not an expert on worker compensation, I have become familiar with the provisions of the Energy Employees Occupational Illness and Compensation Program Act of 2000. I educate our former

workers on the Act during the educational workshops we hold as part of the WHPP program every two weeks.
I should not be surprised at how DOE so defiantly bypassed the intent of Subtitle D of the EEOICP. Instead of setting up procedures that would make it easier for workers to file state worker compensation claims, the DOE proposed rules just set up another layer of bureaucracy whose final outcome is to subject the worker to the state compensation system hurdles the Act sought to avoid. Many DOE workers including myself developed a cautious optimism about DOE in the past couple of years. Perhaps there was a kinder, gentler DOE emerging. These proposed rules destroy that optimism and will make all DOE workers cynical once again about DOE's concern for workers' health.

Section 852.3 of the proposed rule calls for an individual to obtain a application for review and assistance from "the Program Office, a Resource Center or from any DOE-sponsored Former Worker Program. In order to provide any meaningful assistance to claimants, the Former Worker Programs need to reconstruct the chemical exposures at a facility. We are the only ones in the unique position of being able to do this. We know the workers and have their trust so that we can conduct more interviews and risk mapping sessions. We have worker investigators who can review documents for information on toxic exposures such as production reports, industrial hygiene records and accident reports. But DOE must provide the resources that will allow the Former Worker Programs to conduct these exposure assessments. It is our experience that the contractor or DOE included very little if any information on exposures to toxic agents within an individuals personnel file. This makes it absolutely necessary to perform a systematic exposure assessment which will allow for a determination of an individual's exposures by comparing the building exposure data with an individual's work history (what jobs they had and what building they worked in). Without this additional information we feel that our chances for a fair consideration for compensation will be lost.

If there is no chemical exposure data, how in the world is the Physicians Panel going to determine that "it is more likely than not" that the worker's employment caused the disease? It will be impossible. Drop any qualification like "more likely than not" and provide the Former Worker Programs with the resources that will allow them to reconstruct the past chemical exposures. This will at least provide the sick workers with information to support a claim that stands any chance of success. I very much fear that no sick worker will receive a state compensation award. The contractors will contest the claims and DOE has very little leverage to prevent them from doing so. The proposed rule states that DOE **may,** to the extent permitted by law, direct a DOE contractor not to contest the claim or award. The threat that contesting the claim is not an allowable cost under a DOE contract is no deterrent because contesting the claim will be cheaper than paying it and once claims are contested, it will have a chilling effect upon other workers filing claims. The proposal says that the contractors will pass on the expense of the claims to DOE, but I don't believe that will be effective unless there is a formal written requirement that DOE reimburse the costs of compensation.

Subtitle D of the Act calls for DOE to review an application for only two things: the claimant worked for a DOE contractor; and the illness or death **may** have been related to employment at a DOE facility. DOE chose to ignore the Act and insert a third condition; that the worker meet State eligibility requirements before an application can be submitted to the Physician's panel. DOE solicits comment on whether these proposed conditions are appropriate and I would refer them back to the Act for guidance. Under (7) of Sec. 3602 of the Act, Findings, Sense of Congress it states that ""Existing information indicates that State workers' compensation programs do not provide a uniform means of ensuring adequate compensation for the types of occupational illnesses and diseases that relate to the employees at those sites." How can DOE justify allowing states to identify the applicable criteria used to determine the validity of a workers' compensation claim before the claim even goes to the Physician's panel? I thought the purpose of the Physician's panel was to overcome some of the obstacles of the state compensation system and set up uniform standards by which the physicians will determine whether the worker's illness is job-related. Further, since when has DOE abrogated to itself the right to interpret state compensation law and decide which cases should go to the Physician's Panel on the basis of state criteria for the consideration or admissibility of claims. The state agreements referred to in the Act are to allow the DOE to provide assistance to a sick worker in filing a claim under the appropriate State workers'compensation system not

to hamper that process. This provision defeats that intent and the intent of the Physician's Panel which is to provide the sick worker with an independent medical opinion that will then trigger the DOE's Worker Advocacy Office helping the worker file a state claim. Don't impose another layer of bureaucracy on the process.

These proposed rules under section 852.15 give the Program Office virtually unbridled authority to re-examine a physician's panel decision on an application. Since when has the staff of DOE obtained the expertise to question the decision of experts in the medical arena? These rules would stifle any physician from even wanting to serve on the panel since their work is so hamstrung.

Finally, is this Office of Hearings and Appeals a DOE office? I assume it is. If that is the case, why is DOE hearing an appeal on a decision issued by a DOE office? There is no independent judgement here.

I am very disheartened by these proposed rules and can only conclude that DOE has reverted to its traditional role of callous disregard for its Cold War veterans. I urge you to go back to the drawing board and rewrite these rules with the assistance of someone who has some compassion for sick workers. Thank you.